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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,186

08/14/2008

Claudio Bargheer

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EXAMINER

WHITE, RODNEY BARNETT

ART UNIT

PAPER NUMBER

3636

MAIL DATE

DELIVERY MODE

09/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/586,186	Applicant(s) BARGHEER ET AL.	
	Examiner Rodney B. White	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-16, 19-27, and 29-31 is/are rejected.
- 7) ☒ Claim(s) 17, 18 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :07/14/2006, 06/23/2008, & 10/23/2008.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 reads like a method or process of making claim. From where the cloth is pulled, whether it is pulled from a reel or rod is totally irrelevant. If Applicant wants to claim such subject matter, he should probably submit method or process of making claims.

The aforementioned problem renders the claim vague and indefinite.
Clarification and/or correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-15, 19-25, 27, and 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Bogisch et al (U.S. Patent No. 2002/0041116 A1), now U.S. Patent No. 6,746,076 B2).

A Bogisch et al teach a vehicle seat comprising: a backrest, a height-adjustable head restraint which has a supporting hoop with two parallel supporting rods guided in the backrest and a head cushion held on the supporting hoop, a ventilation device which has a blow-out opening arranged in an upper **22.1** side of the backrest for blowing out a hot air stream, and a diffuser **22** (See Figures 5-6 and specification in paragraph [0028] arranged in an intermediate space between the backrest and the head cushion which blocks off the intermediate space to the rear and is designed and oriented relative to the blow-out opening in such a manner that the hot air stream emerging from the blow-out opening in the direction of the head cushion is altered into a spread-apart, diffuse hot air flow spreading out to a neck and rear head region of a seat user, wherein the diffuser is variable in length and is fixed on the upper side of the backrest and on a lower side of the head cushion, wherein, in a transverse direction of the seat, the diffuser covers a region between the two supporting rods of the supporting hoop of the head restraint, wherein the diffuser is designed as stretched cloth which is inclined with respect to the upper side of the backrest and extends from a rear edge of the upper side of the backrest as far as a front edge of a lower side of the head cushion, wherein the blow-out opening arranged in the upper side of the backrest is a mouth opening of a pressure connection of a suction fan of the ventilation device, and wherein the suction fan is integrated in the backrest, wherein the

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diffuser is formed by a blow-out duct which surrounds the blow-out opening in the upper side of the backrest, enters the backrest in an axially displaceable manner, extends as far as a lower side of the head cushion and is fastened to the latter, and wherein, in a duct section extending between the upper side of the backrest and the lower side of the head cushion, the blow-out duct is open forward toward the neck and head region of a seat user, wherein the blow-out duct is curved forward at least in its end region facing the head cushion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bogisch et al (U.S. Patent No. 2002/0041116 A1).

Bogisch et al teaches the structure substantially as claimed but does not teach from the diffuser cloth is taken. Examiner takes official notice that such a limitation lacks patentable weight since it does not matter from the cloth is taken as long as the art used to reject the claims has the structure. Such a feature or limitation appears more suitable for a method or process making claim.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bogisch et al (U.S. Patent No. 2002/0041116 A1) in view of Bargheer et al (U.S. Patent No. 6,761,399 B2).

Bogisch et al teach the structure substantially as claimed but does not teach the a blow-out duct surrounding the blow-out opening. However, Bargheer et al teach a blow out duct 24 surrounding the blow-out opening to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the seat, as taught by Bogisch et al, to include an air blow out duct, as taught by Bargheer et al, since the heated air flow exiting via the outlet opening 26 may be conducted to the location desired by the seat occupant.

Claims 17-18 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure because it teaches structures and concepts similar to those of the present invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571)272-6863. The examiner can normally be reached on 5:30 AM-3:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dunn David can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney B. White/
Primary Examiner,
Art Unit 3636
September 17, 2009